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COMMITTEE AGAINST TORTURE

Eighth session

SUMMARY RECORD OF THE 118th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 8 May 1992, at 10 a.m.

Chairman: Mr. VOYAME

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The meeting was called to order at 10.05 a.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 5) (continued)

1. The CHAIRMAN said that Mr. Dipanda Mouelle and Mr. Lorenzo, members of the Committee, Mr. Houshmand of the Centre for Human Rights and he himself had had a cordial meeting with Mr. Blanca, Under-Secretary-General for Human Rights, who had assured them that he took a great interest in the Committee's work, although his workload had prevented him from attending its meetings as often as he would have wished; Mr. Blanca had asked the Chairman to convey his thanks to the Committee.

ANNUAL REPORT OF THE COMMITTEE ON ITS ACTIVITIES (agenda item 12) (continued) (CAT/C/VIII/CRP.1/Add.1, Add.14 and Add.15)

2. The CHAIRMAN invited the Committee to turn its attention to those parts of its report still to be considered. As the relevant documents had not yet been issued in all languages, he invited the Secretary of the Committee to clarify the situation in that regard.

3. Mr. BRUNI (Secretary of the Committee) said that document CAT/C/VIII/CRP.1/Add.1 had so far appeared in English only; document CAT/C/VIII/CRP.1/Add.14 was available in English and French; and document CAT/C/VIII/CRP.1/Add.15 had been distributed in provisional form, some sections being in French and others in English. The documents would be available that afternoon in all languages.

4. The CHAIRMAN asked whether the members of the Committee wished to defer consideration of those documents until the afternoon, when they would be available in all languages.

5. Mr. BURNS (Rapporteur), Mr. EL-IBRASHI and Mr. DIPANDA MOUELLE thought that the Committee could very well proceed at once, with the assistance of simultaneous interpretation, to consider the Committee's draft report.

6. The CHAIRMAN asked the other members of the Committee whether they agreed to that approach. Reading out the whole of the documents for their contents to be interpreted might take a long time.

7. Mr. KHITRIN said that he was perfectly willing to consider the documents as they stood. It seemed unnecessary to have them read out for interpretation; the Rapporteur could comment on them briefly before their adoption.

8. Mr. LORENZO agreed that the documents could be considered in the language versions already circulated.

9. Mr. MIKHAILOV said he had already noted, at the previous meeting, that the draft report had been very well prepared. He proposed that the Rapporteur should make a brief reference to each document and that only the concluding observations should be read out; members would thus be able to hear the interpretation of those observations.

10. Mr. DIPANDA MOUELLE supported that solution, on the understanding that, if any paragraphs gave rise to difficulty, they too could be translated by the interpreters.

11. The CHAIRMAN proposed that the meeting should be suspended in order to give everyone time to study the documents. The Committee would then request the Rapporteur briefly to describe their contents, after which only paragraphs which gave rise to difficulties, and the concluding observations, would be read out.

12. Mr. MIKHAILOV and Mr. EL-IBRASHI supported that proposal, noting that the suspension of the meeting could be short, since the documents in question seemed very clear.

13. It was so decided.

14. The meeting was suspended at 10.15 a.m. and resumed at 10.35 a.m.

15. The CHAIRMAN invited the Committee, in accordance with the decision taken, to consider the remaining parts of the draft report as contained in documents CAT/C/VIII/CRP.1/Add.1, Add.14 and Add.15.

Chapter I. Organizational and other matters

Section F. Cooperation between the Committee and the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture (paras. 1 and 2)

16. Mr. BURNS (Rapporteur) considered that the two paragraphs of that section faithfully reflected the content of the discussions.

17. Section F was adopted.

Section G. Information on the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (paras. 3 and 4)

18. Mr. BURNS (Rapporteur) observed that, on that subject, Mr. Sorensen had given an excellent report, which was reflected in section G.

19. Section G was adopted.

Section H. Question of a draft optional protocol to the Convention (paras. 5-13)

20. Mr. BURNS (Rapporteur) invited the Committee to study that particularly delicate section with care, and especially everything concerning articles 8 and 9 of the draft optional protocol. When preparing the draft report, he had focused particularly on the points on which the Committee had reached agreement, rather than on the questions left pending. Paragraphs 12 and 13 dealt with the amendments which the Committee would like to be made to article 15 of the draft optional protocol in the light of the provisions of article 20 of the Convention.

21. At the request of Mr. LORENZO, Mr. BURNS (Rapporteur) read out paragraph 9 of document CAT/C/VIII/CRP.1/Add.1.

22. Section H was adopted.

Section I. Preparatory activities relating to the World Conference on Human Rights (paras. 14-22)

23. Section I was adopted.

24. Document CAT/C/VIII/CRP.1/Add.1 was adopted.

Chapter IV. Consideration of reports submitted by States parties under article 19 of the Convention: Italy (CAT/C/VIII/CRP.1/Add.14)

25. The CHAIRMAN said that for the time being the document was available in English and French; drafting amendments could be made to it later.

Paragraphs 1 and 2 (Introduction of the report by the Italian delegation)

26. Paragraphs 1 and 2 were adopted.

Paragraphs 3-16 (Questions put by the Committee to the Italian delegation)

27. Paragraphs 3-16 were adopted.

Paragraphs 17-26 (Replies by the Italian delegation)

28. Mr. LORENZO, referring to paragraph 17, where mention was made of a "Freedom Court", said that, in his view, it could not be classed as a criminal court.

29. Mr. BURNS (Rapporteur) said he believed that he had used the terms employed by the Italian delegation. It was true that the court referred to was essentially empowered to deal with matters where the Administration was guilty of dilatoriness or negligence - in which case it would appear to be an administrative court rather than a criminal court. In any event, reference should be made to the summary record of the meeting in question.

30. Mr. MIKHAILOV said it seemed to him that the text of paragraph 17 reflected what had been said; the reference was to a section of a criminal court dealing with criminal aspects of administrative matters.

31. Mr. BRUNI (Secretary of the Committee) read out paragraph 19 of the summary record (CAT/C/SR.110/Add.1) of the meeting at which the court in question had been referred to.

32. Mr. BURNS (Rapporteur) noted that that paragraph of the summary record contained no mention of a criminal court; on the other hand, a reference to the Criminal Court had been made in paragraph 31 of the record. The present wording of the draft report should therefore be retained.

33. It was so decided.

34. Paragraphs 17-26 were adopted.

Paragraphs 27-29 (Concluding observations)

35. The CHAIRMAN proposed that the meeting should be suspended for a few minutes in order to give the Committee time to study the concluding observations.

36. The meeting was suspended at 10.55 a.m. and resumed at 11 a.m.

37. Mr. EL-IBRASHI said that he had two suggestions to make, but would not press for their adoption. Firstly, he would like the word "civilly" to be added between the words "held" and "responsible" in the ninth line of paragraph 28; secondly, he thought that the words "energetically and swiftly" at the end of paragraph 29 were superfluous.

38. Mr. BURNS (Rapporteur) said that the two adverbs in paragraph 29 corresponded exactly to what had been said. Swiftness was a decisive factor in matters of that sort; as to the term "energetically", it signified that such matters must be dealt with not in offhanded fashion but in real earnest.

39. Mr. DIPANDA MOUELLE said he wondered whether paragraph 28 reflected the Committee's thinking strongly enough: the Committee had regretted that the Italian legislation made no provision for compensating victims.

40. Mr. MIKHAILOV said that, in his view, the wording of paragraph 28 should not be amended as suggested by Mr. El-Ibrashi. The State was, in fact, responsible not only civilly but also morally. It seemed preferable, therefore, to leave the text as it stood.

41. Mr. LORENZO said that it would be as well to specify that the State must in fact be civilly responsible for the acts of its servants and should compensate the victims; that was what had emerged from the discussions. Any State, of course, was liable politically and morally for acts of the Administration, but its civil liability must be recognized in specific texts. As to the words "energetically and swiftly" at the end of paragraph 29, they accurately reflected the Committee's deliberations and should be retained.

42. Mr. BURNS (Rapporteur), proposed that, in order to reflect the observations of Mr. Lorenzo and Mr. Dipanda Mouelle, the fourth sentence in paragraph 28 should be replaced by: "The Committee was concerned at the absence of a system of compensation for victims, and it was emphasized that, in accordance with the Convention, the State should be held not only morally but civilly responsible for the acts of its servants".

43. Mr. MIKHAILOV thought it would be as well to add a sentence requesting Italy to adopt a law on compensation for victims of torture.

44. The CHAIRMAN felt that that would amount to interfering in Italian domestic law. He therefore supported the text proposed by Mr. Burns.

45. Mr. MIKHAILOV said he wondered whether it was in fact wise to introduce the idea of moral responsibility.

46. Mr. EL-IBRASHI said that, in his view, the notion of moral responsibility should not be mentioned in the text, since the notion of administrative responsibility would likewise have to be invoked. In fact, it was civil responsibility that concerned the Committee, whose members would like a system for the compensation of victims to be instituted.

47. Mr. BURNS (Rapporteur) said that he was prepared to delete the reference to moral responsibility.

48. The CHAIRMAN, referring to the words "energetically and swiftly" in paragraph 29, considered that there were too many instances of criminal actions which lasted for years. It therefore appeared useful to reflect the urgency implicit in those words, so as to stress the seriousness with which the Committee would like those actions to be conducted.

49. Mr. BEN AMMAR proposed that the word "swiftly" should be replaced by "as promptly as possible".

50. The CHAIRMAN proposed that document CAT/C/VIII/CRP.1/Add.14, including the amendments which had given rise to no objection during the discussion, should be adopted.

51. It was so decided.

Chapter IV. Consideration of reports submitted by States parties under article 19 of the Convention: Romania (CAT/C/VIII/CRP.1/Add.15)

52. Mr. BURNS (Rapporteur) said that he had no comment to make on the substance of the text. He read out the concluding observations, which were set out in paragraph 26 of document CAT/C/VIII/CRP.1/Add.15.

53. The CHAIRMAN invited the Committee to comment. Referring to the fourth sentence of paragraph 26, he wondered whether the Committee had actually requested the Romanian delegation to provide it with information on concrete cases; to do so might in fact embarrass Romania. He therefore proposed that the secretariat should be instructed to verify, from the summary records, whether that question had actually been raised and, if not, simply to delete the phrase concerned.

54. Mr. MIKHAILOV and Mr. EL-IBRASHI felt that there was no need to ask Romania for information on concrete cases.

55. Mr. LORENZO agreed that Mr. Burns and Mr. Bruni, the secretary of the Committee, should check the summary records but deemed it inadvisable to request information on concrete cases.

56. Mr. DIPANDA MOUELLE endorsed Mr. Lorenzo's views.

57. The CHAIRMAN proposed that the matter should be left pending and that Mr. Burns and Mr. Bruni should be instructed to check the records as requested. He further proposed that the Committee should adopt document CAT/C/VIII/CRP.1/Add.15, subject to that verification.

58. It was so decided.

CLOSURE OF THE SESSION

59. Mr. LORENZO, Mr. EL-IBRASHI and Mr. BEN AMMAR, as new members of the Committee, thanked their colleagues for the warm welcome extended to them and for the friendly atmosphere they had encountered.

60. The CHAIRMAN informed the Committee that there was now a sixty-seventh State party to the Convention: Seychelles.

61. After an exchange of courtesies and thanks, the CHAIRMAN declared the session closed.

The meeting rose at 11.40 a.m.